



Crl.O.P.No.1704 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.1704 of 2024 and

Crl.M.P.No.1197 of 2024

P.Premananth

... Petitioner

Vs.

1. State Rep. by

The Inspector of Police

Mayiladuthurai Police Station

Mayiladuthurai DT.

(Crime NO.473 of 2023)

2. Mrs.Geetha

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S.

praying to call for the records pertaining to the Crime No.473 of 2023 on the

file of the Inspector of Police, Mayiladuthurai Police Station, Mayiladuthurai

District and quash the same.



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For Petitioner : Mr.V.Subramanian
for M/s.R.Desamani
For 1st Respondent : Mr.S.Sugendran
Additional Public Prosecutor
For 2nd Respondent : Mr.R.Anbu Raj

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the FIR in Crime No.473 of 2023 on the file of the Inspector of Police, Mayiladuthurai Police Station, Mayiladuthurai District.

2. The learned counsel for the petitioner submitted that based on the false complaint given by the 2nd respondent/defacto complainant, the case in Crime No.473 of 2023 was registered against the petitioner for the offences under Section 294(b) of IPC and Section 67 of the Information Technology Act 2000, alleging that the petitioner sent messages in filthy language to the defacto complainant's son and when the same was questioned by the defacto complainant, the petitioner scolded the defacto complainant in unparliamentary words. The learned counsel further submitted that earlier also, the 2nd



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respondent had given a complaint against the petitioner for the very same set of allegations, which was numbered as CSR No.635 of 2023 and in order to give quietus to the issue, the 2nd respondent demanded money through her counsel and subsequently, the petitioner also paid money via GPAY and by cash through the 2nd respondent's counsel and thereafter, the case was closed. Again, demanding further amount, the present case has been registered which was earlier closed. The said facts have been recorded by this Court while granting anticipatory bail to the petitioner in Crl.IO.P.No.16732 of 2023 dated 24.08.2023 and further, this Court also directed the Bar Council to take action against the counsel for the 2nd respondent. Subsequently, the 2nd respondent filed a petition in Crl.O.P.No.23303 of 2023 to alter the offences and to include the offence under the SC/ST Act and the same was dismissed by this Court vide order dated 12.10.2023. Therefore, it is a fit case to invoke Section 528 of B.N.S.S. and there is no ingredient to attract the offence under Section 67 of the Information Technology Act and that the offence under Section 294(b) of



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IPC is not made out. Therefore, the FIR registered against the petitioner may be quashed.

3. The learned Additional Public Prosecutor appearing for the respondent police submitted that this Court while admitting this petition, had stayed the investigation due to which, they could not proceed with the investigation.

4. The learned counsel appearing for the 2nd respondent/defacto complainant submitted that the order passed in the interlocutory order will not bind this Court.

5. Heard both sides and perused the materials available on record.

6. A perusal of records shows that the FIR has been registered based on the allegations made by the 2nd respondent. Though the learned counsel for the petitioner submitted that the ingredients of the offences mentioned in the FIR are not made out, FIR is not an Encyclopedia and it is just a First Information Report regarding commission of offence and to set the law into motion and all the offences involved in a crime, cannot be made out at the state of FIR and it



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required investigation.

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7. It is settled proposition of law that the investigation need not be restricted only with the Section of offences mentioned in the FIR and based on the allegations/informations, the Investigating Officer can proceed and if the Investigating Officer finds that some other offences are involved and if there is a prima facie material, they can alter the offences based on the materials they collected during the course of investigation. Even if the Court finds that any other offence is involved or any other offence is made out, the Court can also give a direction to the police to conduct further investigation and to file alteration report. Therefore, since because the FIR does not disclose all the offences, it does not mean that no offence is made out. Only the investigation would unearth the materials.

8. In this case, now the respondent police is unable to proceed with the investigation due to the stay granted by this Court.



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9. Therefore, this Criminal Original Petition is dismissed. Consequently,

connected Miscellaneous Petition is closed.

10. The respondent police is directed to proceed with the investigation and file charge sheet in accordance with law.

11. The petitioner is at liberty to work out his remedy in the manner known to law after the charge sheet is filed by the respondent police.

18.11.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The Inspector of Police
Mayiladuthurai Police Station
Mayiladuthurai DT.

2. The Public Prosecutor
The High Court of Madras

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P.VELMURUGAN. J.

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